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07/808,751 12/17/91 YOCK

P 18000.5003.4

EXAMINER

JAWORSKI, F

33M1/1016

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ART UNIT

PAPER NUMBER

3305

DATE MAILED: 10/16/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-23 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-23 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

632,747
S.N. 07/808,751

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This case has been withdrawn from issue in order to lodge a new rejection.

The reissue oath or declaration filed with this application is defective because it fails to particularly specify how the errors relied upon arose or occurred, as required under 37 C.F.R. § 1.175(a) (5).

The six claims of the original patent are drawn to an apparatus for use in cannulation of blood vessels. Applicants, in their original declarations, have specified several insufficiencies in these claims, but have not shown how seventeen new claims rectify the "errors" in the original claims. While applicants are correct in their assessment of the basic rule requirements (as per remarks in Paper No. 13), further information should be supplied as set forth in the decisions In re Wittry, 180 USPQ 320 (requires that applicants assert a difference in scope between the original and any added claims) and In re Constant, 3 USPQ 2d 1479, (every departure from the original claims is an "error" which must be described in the declaration).

Claims 1-23 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.

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Additionally, applicants have added claims to inventions not claimed in the original application, e.g., a kit and a method for guiding a needle. The declaration should at least establish reasons for consideration of this subject matter as part of the same invention since these claims if they had been presented during the original prosecution would have been restrictable as not for the same invention. Reasons why this subject matter was not earlier claimed and is otherwise not restrictable cannot be found in the original declarations. Applicants remedy may be in the form of a declaration from the previous attorney under 37 CFR 1,175(b).

Claims 14, 15 and 23 are rejected under 35 U.S.C. 251 as being not for the same invention as claimed in the patent.

Any inquiry concerning this communication should be directed to Examiner Francis J. Jaworski at telephone number (703) 308-3061.

FJJ

9-11-95


FRANCIS J. JAWORSKI
PRIMARY EXAMINER
ART